IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2717 OF 2006

Jalinder Manik Shinde ... Petitioner

V/s.

Pandurang Gorakh Kharade & Ors. ... Respondents

Mr Sudatta J. Patil i/by Mr. Umesh Mankapure for the petitioner.

Mr.D. S. Mhaispurkar, APP for the State.

CORAM : SMT. RANJANA DESAI & ANOOP V. MOHTA,JJ.

DATED : 15th February, 2007

P.C.

The petitioner is the father of one Janabai who was married to respondent 1 on 17/11/2002. After marriage Janabai was staying with respondent 1 at Thane. On 12/06/2006, Janabai succumbed to death due to poisoning at Thane.

2. The petitioner lodged a complaint at Wagale-Estate Police Station at Thane. Investigation was conducted on the basis of the said complaint and respondents 1 to 7 came to be arrested. They were subsequently released on bail by the Sessions Court at Thane. The

police have filed a Charge-sheet in the Sessions Court at Thane. Respondents 1 to 7 are charged under Sections 304(b), 306, 498-A read with Section 34 of the Indian Penal Code.

3. In this petition the grievance of the petitioner is that this is in fact a case of murder and the police ought to have added Section 302 of the Indian Penal Code in the Charge-sheet. According to the petitioner, the investigation is not conducted properly and hence the police may be ordered to re-investigate the case through independent machinery. It is also alleged that the petitioner and the members of his family who are witnesses in the said case are being threatened and anonymous calls are received at the house of the petitioner's son-in-law. It is therefore, prayed that Criminal Case No.964 of 2006 pending on the file of the District Judge, Thane be transferred to the District and Sessions Court, Ahmednagar.

4. We have heard the learned counsel for the petitioner. He has submitted that the petitioner is a daily wage labourer. He resides in Ahmednagar. He submitted that the police have failed to carry out

proper investigation. Repeated complaints were made by the petitioner. However, no action was taken on the said complaints. He submitted that the respondents have threatened the petitioner and some of the witnesses who are from Ahmednagar that, if they do not support the respondents, they will not return to Ahmednagar. He has pointed out that the complaint making the above grievance was addressed to Wagle-Estate police station. A copy of the complaint is annexed to the petition. The learned counsel for the petitioner contended that the police have however, not taken any action.

5. We have also heard the learned APP Mr.D. S. Mhaispurkar. Mr. K.S.Kachare, ACP, attached to Wagle-Estate Division, Thane is present in the Court today. On instructions from Mr.Kachare the learned APP states that the allegations that police have not carried out proper investigation are baseless. It, however, appears to us that the petitioners complaint addressed to the Wagle-Estate Police Station is not attended to. It is high time that the police take steps to protect witnesses who are being threatened. The learned APP on instructions from Mr. Kachare states that the complaint which is pending with the

Wagle-Estate Police station will be immediately attended to and necessary steps in right direction will be taken, proper enquiry will be conducted and those who may be found involved would be nabbed. He submits that witnesses from Thane as well as witnesses from Ahmednagar will be given proper and effective protection at the cost of the police. We record this statement. We hope and trust that the police will abide by this statement.

6. Petition is disposed of accordingly.

[SMT.RANJANA DESAI, J.]

[ANOOP V. MOHTA, J.]